



June 1, 2000

Mr. Terry Jackson
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606-1952

OR2000-2152

Dear Mr. Jackson:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 136814.

The City of Longview received a request for the tape recording of a 911 call. You argue the recording is excepted from public disclosure pursuant to Government Code section 552.101 in conjunction with the informer's privilege. We have considered the exception you claim and have reviewed the submitted tape recording.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided that the subject of the information does not already know the informer's identity. *See Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978)*. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." *Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961))*. The report must be of a violation of a criminal or civil statute. *See Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988)*. The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. *See Open Records Decision No. 549 at 5 (1990); Open Records Decision No. 156 (1977) (name*

of person who makes complaint about another individual is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law).

You explain that the tape recording is of an anonymous call reporting a possible violation of the law, specifically, allegations of child abandonment or neglect. After listening to the tape recording, we find that the recording contains the caller's name. Even if the caller's name were redacted from the recording, it is conceivable that her identity could be determined by virtue of her voice alone. Therefore, we conclude that the city must withhold the tape recording in its entirety under section 552.101 of the Government Code in conjunction with the informer's privilege.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

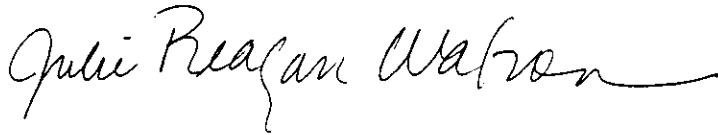
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Julie Reagan Watson". The signature is fluid and extends to the right with a long horizontal stroke.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/nc

Ref: ID# 136814

Encl. Submitted documents

cc: Ms. Kishanda Jackson
1808 Bolton Street
Longview, Texas 75606
(w/o enclosures)